

Attorney Docket No.: 5670-40

PATENT

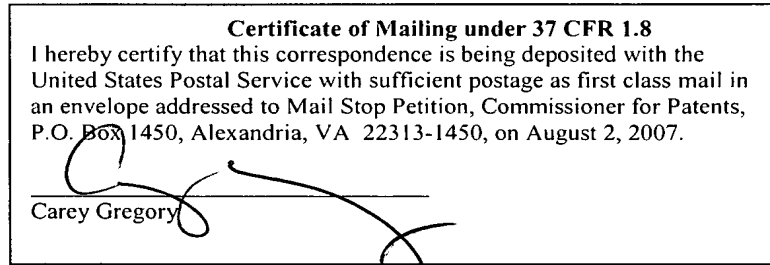
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re: Prabakaran et al
Serial No.: 10/092,646
Filed: March 6, 2002
For: METHOD FOR MANAGING OBJECTS CREATED IN A DIRECTORY SERVICE

Group Art Unit: 2194
Confirmation No.: 8485
Examiner: Qing Yuan Wu

August 2, 2007

Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450



APPELLANTS' BRIEF ON APPEAL UNDER 37 C.F.R. §1.192

Sir:

This Appeal Brief is filed pursuant to the "Notice of Appeal to the Board of Patent Appeals and Interferences" mailed November 9, 2006. This Appeal Brief is being filed concurrently with a Petition to Revive this application.

Real Party In Interest

The real party in interest is assignee NetIQ Corporation, a Delaware corporation having its principal place of business in Houston, Texas.

Related Appeals and Interferences

Appellants are aware of no appeals or interferences that would be affected by the present appeal.

Status of Claims

Claims 3-7, 9-12 and 14-25 remain pending as of the filing date of this Brief. Claims 3-7, 9-12 and 14-25 stand rejected at least twice. Appellants appeal the rejection of Claims 3-7, 9-12 and 14-25 as reflected by the Office Action of September 7, 2006. The attached Appendix A presents the claims at issue as rejected in the Office Action of September 7, 2006 (hereinafter "Office Action").

Status of Amendments

The attached Appendix A presents the pending claims and the corresponding status of each of the pending claims.

Summary of the Claimed Subject Matter

The present application includes method and system claims directed to selective restoring of policy objects associated with a directory service of a computer. Policy objects are "a common way to effectuate changes in Registry setting data." Specification, p. 7, line 21. Policy objects "are a special type of directory objects that could contain information on controlling how programs, network resources, and the operating system operate for users and computers in an organization utilizing a distributed computing environment." Specification, p. 8, lines 4-6. Using embodiments of the present invention, policy objects may be individually backed up and restored. Specification, p. 3, line 20. For example, if a group policy object is lost, "the administrator need only restore the individual policy object that was deleted or corrupted." Specification, p. 3, lines 21-22. Such selective restoring may be "completed in a fraction of the time it takes to restore the entire directory." Specification, p. 3, lines 22-24.

In particular, independent method Claim 14 is directed to a method for selective restoring of policy objects associated with a directory service of a computer system including backing up a plurality of the policy objects associated with the directory service of the computer system. A problem is detected with a selected one of the plurality of policy objects and the selected one of the plurality of policy objects is restored without restoring others of the plurality of policy objects. Specification, p. 3, lines 20-25.

Independent Claim 22 is a system claim including "means for" type recitations corresponding to method Claim 14. Corresponding structure for the means for backing up is found, for example, in the specification at page 5, lines 1-11. Corresponding structure for the means for restoring is found, for example, in the specification at page 5, lines 12-24. Corresponding structure discussing both is also found in the specification at page 6, line 1 to page 7, line 6. Corresponding structure for the means for detecting a problem is found, for example, at page 3, lines 20-22. In particular, the corresponding structure for all three policy manager means of Claim 22 may be "software applications." Specification, p. 3, lines 1-2.

Various additional embodiments are claimed by ones of the dependent method claims. For example, Claim 17 recites "restoring the selected one of the plurality of policy objects includes replicating the selected one of the plurality of policy objects across domain boundaries of the computer system." Such embodiments may allow the replication of security objects across domain and forest boundaries without having to manually recreate them." Specification, p. 3, lines 15-16.

Grounds to be Reviewed on Appeal

1. Is Claim 22 properly rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter? (Office Action, p. 2).
2. Are Claims 3-7, 9-12, 14-17 and 19-25 properly rejected under 35 U.S.C. § 103(a) as unpatentable over "Inside Windows 200 Server" to Boswell (hereinafter "Boswell") in view of U.S. Patent No. 5,878,408 to Van Huben *et al.* (hereinafter "Van Huben")? (Office Action, p. 3).
3. Is Claim 18 properly rejected under 35 U.S.C. § 103(a) as unpatentable over Boswell and Van Huben and further in view of U.S. Patent Application Pub. No. 2002/0095524 to Sanghvi *et al.* (hereinafter "Sanghvi")? (Office Action, p. 7).

Argument

I. Introduction

Claim 22 stands rejected under 35 U.S.C. § 101 as being directed to non-statutory subject matter as it is directed to software alone without claiming associated computer hardware required for execution.

The United States Patent Office has recently issued the following guidelines related to such a rejection:

In addition, the Federal Circuit has recently noted that a "structural inquiry is unnecessary" when determining whether a process claim is eligible for patent protection. *AT&T*, 172 F.3d at 1359, 50 USPQ2d at 1452.

Thus, a finding that a claim fails to recite a computer-implemented process is not determinative in whether that claim passes muster under Sec. 101. Therefore, USPTO personnel should no longer rely on the machine implemented test to determine whether a claimed invention is directed to statutory subject matter.

Interim Guidelines for Examination of Patent Applications for Patent Subject Matter Eligibility, OG Notices, 22 November 2005; *See also, AT&T Corp. v. Excel Communications, Inc.*, 172 F.3d 1352, 1359, 50 USPQ2d 1447, 1452 (Fed. Cir. 1999).

Claims 3-7, 9-12 and 14-25 stand rejected as obvious under 35 U.S.C. § 103. To establish a prima facie case of obviousness, the prior art reference or references when combined must teach or suggest *all* the recitations of the claims, and there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. M.P.E.P. §2143. The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. M.P.E.P. §2143.01, citing *In re Mills*, 916 F.2d 680, 16 U.S.P.Q.2d 1430 (Fed. Cir. 1990).

In *KSR Intern. Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007), the U.S. Supreme Court rejected a "rigid and mandatory" application of the TSM test to resolve questions of obviousness. The *KSR* court did note, however, that it was "important to identify a reason that would have prompted a person of ordinary skill in the relevant field to combine the [prior art] elements" in the manner claimed, and, for that reason, the analysis regarding whether such reason existed "should be made explicit." *KSR*, 127 S.Ct. at 1741.

II. Claim 22 is Directed to Statutory Subject Matter

Claim 22 stands rejected under 35 U.S.C. § 101 as not being directed to statutory subject matter. In the Office Action, the Examiner indicates that software without related hardware is not patentable, which corresponds to previous rejections of method claims overcome by amending the pre-amble to recite "computer implemented" as suggested by the Examiner to expedite prosecution. Office Action, p. 2. As discussed in the previous section, this rejection is contrary to the United States Patent Office's own guidelines and understanding of current Federal Circuit case law. Furthermore, Appellants note Claim 22 is directed to a "system" including various means for type recitations that may be implemented as software as alleged by the Examiner. However, Claim 22 expressly recites these as components of a "system," which is clearly patentable subject matter. Accordingly, the

rejection of Claim 22 as directed to non-statutory subject matter should be reversed for at least these reasons.

III. Independent Claims 14 and 22 Are Patentable Over Boswell and Van Huben

Independent Claims 14 and 22, and the claims that depend therefrom, are rejected under 35 U.S.C. § 103 as being unpatentable over Boswell in combination with Van Huben. Office Action, p.3.

Appellants submit that the Office Action has failed to establish a *prima facie* case of obviousness as a proper motivation to combine the references in the manner cited in the claims has not been established. In addition, even were the references to be combined as cited by the Office Action, the combination would not disclose or suggest the recitations of the pending claims. Accordingly, the rejections should be reversed for at least these reasons.

In rejecting Claim 14, the Office Action asserts that Boswell discloses "backing up a plurality of the policy objects associated with the directory service of the computer system." Office Action, p. 3. In particular, the Office Action cites to Chapter 11 of Boswell, regarding backing up the directory and performing directory maintenance.

Independent Claim 14 recites as follows:

A method for selective restoring of policy objects associated with a directory service of a computer system, comprising:
backing up a plurality of the policy objects associated with the directory service of the computer system;
detecting a problem with a selected one of the plurality of policy objects; and
restoring the selected one of the plurality of policy objects without restoring others of the plurality of policy objects. (Emphasis added)

Appellants submit that at least the highlighted portions of Claim 14 are not disclosed nor suggested by Boswell or Van Huben.

As described in the present specification, the selective restoration of the present invention may be advantageous, particularly in a networked computer system environment. In particular, some embodiments of the present invention, such as recited in Claim 14, may be:

capable of backing up and restoring policy objects individually. In the event a group policy object is lost, the administrator need only restore the individual policy object that was deleted or corrupted. The process of

restoring only the lost policy object can be completed in a fraction of the time it takes to restore the entire directory service.

Specification, p. 3, lines 20-24.

In contrast, Boswell states:

The **only method for backing up** the Registry and the Active Directory is by using Windows 2000 Backup. . . One drawback to the new backup strategy in Windows 2000 does exist. You cannot back up or restore just the Registry or just the Directory or just the boot files. **You must back up and restore all system files at once.**

Boswell, Chap. 1, page 1 of excerpt provided by Examiner (emphasis added). Thus, Boswell, if anything, teaches away from selective restoring of one or more policy objects where a problem is detected without restoring others of the policy objects as recited in Claim 14.

In rejecting independent Claim 14, the Office Action acknowledges that Boswell does not teach "detecting a problem with a selected one of the plurality of objects; and restoring the selected one of the plurality of policy objects without restoring others of the plurality of policy objects." Office Action, p. 3. Van Huben is relied on as teaching "restoring individual data objects." Office Action, p. 4. The Office Action further relies on the following statement in Boswell in alleging a motivation to combine the references: "One drawback to the new backup strategy . . . does exist. You cannot back up or restore just the Registry or just the Directory or just the boot files. You must back up and restore all system files at once." Boswell, Chapter 11, page 1. However, even if this is assumed to be a motivation to combine Boswell and Van Huben, the result would not be the present invention as recited in Claim 14.

More particularly, Boswell relates to Microsoft's Active Directory, which is clearly "a directory service of a computer system" as recited in Claim 14. However, the portion cited by the Office Action in Boswell is discussing a problem with having to back up or restore "all system files at once." The system files include not only the Directory but also other Windows operating system features referred to as the Registry and the boot files. While Active Directory does interact with and affect the Registry, it does not include the Registry or the boot files.

Claim 14 recites that the "selected one of the plurality of policy objects" is "**associated with** the directory service." (Emphasis added.) The cited portion of Boswell fails to even identify any need to provide for separate back up or restore of objects within the

Directory. Instead, Boswell identifies a problem that files not associated with the Directory must be backed up or restored whenever the Directory is backed up or restored. Thus, even were Van Huben to be combined with Boswell, the combination would not disclose or suggest the invention as recited in Claim 14 as the Directory would still all be restored at once, it would just not be necessary to restore the Registry and boot files at the same time. Accordingly, the rejection of Claim 14 should be reversed for at least these reasons.

In addition, Van Huben is directed to a "design control system suitable for use in connection with the design of integrated circuits and other elements of manufacture," as contrasted with the operating system (Windows) of Boswell. Van Huben, Abstract. As stated in Van Huben:

Our invention provides for processing and tracking data for a Data Management Design Control System running in a client server environment where elements of the system may exist on a homogenous computer platform, or the elements may be scattered across multiple platforms in a heterogeneous environment. The Design Control System provides processes for hardware design, software development, manufacturing, inventory tracking, or any related field which necessitates execution of repetitive tasks against multiple iterations of data in a quality controlled environment.

Our invention provides a design control system usable in a concurrent engineering process which can cooperate in a distributed environment worldwide to enable a design to be processed with many concurrent engineering people and processes.

Van Huben, Col. 5, line 54 to Col. 6, line 2. Thus, while the cited portions of Van Huben may relate to selective restoring of "data objects," they do not relate to policy objects of a directory service as recited in Claim 14 and discussed in Boswell. Nothing in Van Huben appears to provide any motivation to apply particular features of a cooperative design control system to the back up or restore of a Directory of a Windows operating system as discussed in Boswell. Accordingly, the rejection of Claim 14 should also be reversed as nothing in either of the cited references supports the combination relied on for the rejections.

The Office Action also includes a Response to Arguments Section allegedly responding to the above arguments as previously presented in an Appeal Brief mailed January 5, 2006. Office Action, pp. 8-10. With respect to paragraph 34 in the Response to Arguments section, Appellants submit the Examiner's additional comments on combining Boswell and Van Huben appear to be simply a re-wording of the alleged motivation and fail to address the issues raised by Appellants above. Office Action, p. 9. With respect to

paragraph 35 in the Response to Arguments section, Appellants note that, as described above, even if Boswell were to be modified in light of Van Huben to address the problem noted in Boswell, the result would be that system files not in the directory would not be selected for re-storing. In other words, the Examiner's comments in the Response to Arguments section overlook the motivation advanced by the Examiner for combining the cited references.

Independent system Claim 22 includes recitations corresponding to those discussed above with reference to Claim 14. In fact, the Office Action states that Claim 22 "is rejected for the same reason as claim 14." Office Action, p. 7. Accordingly, the rejection of Claim 22 should be reversed at least for reasons substantially corresponding to those discussed above with reference to Claim 14. The dependent claims are patentable at least based on their dependence from a patentable base claim.

V. Claims 17, 20, 21 and 25 are Separately Patentable

Dependent claims 17, 20, 21 and 25 are patentable at least based on their dependence from a patentable independent claim. The rejection of Claim 17 cites to page 5 of Chapter 11 of Boswell as teaching replicating objects across domain boundaries. Office Action, p. 5. However, the cited portion of Boswell states "[o]nly properties are replicated, not entire objects." Claims 20, 21 and 25 also include recitations related to restoring objects across domains. Accordingly, Claims 17, 20, 21 and 25 are also separately patentable for at least these additional reasons. Accordingly, the rejection of Claims 17, 20, 21 and 25 should also be reversed for at least these additional reasons.

VI. Claim 18 is Patentable

Dependent Claim 18 is rejected under 35 U.S.C. § 103 as being unpatentable over Boswell and Van Huben in combination with Sanghvi. Office Action, p. 7. Appellants submit the rejection of Claim 18 should be reversed at least based on the patentability of the independent claim from which it depends.

Appellants note that the Response to Arguments Section of the Office Action further includes comments related to Sanghvi. Office Action, pp. 9-10. As Claim 18 is not argued as separately patentable, the comments on Sanghvi will not be addressed.

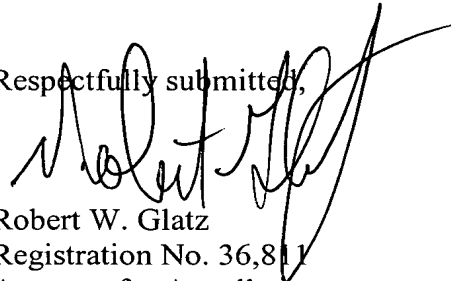
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VII. Conclusion

In light of the above discussion, Appellants submit that the pending claims are directed to patentable subject matter and are patentable over the cited references and, therefore, request reversal of the rejections of those claims and passing of the application to issue.

It is not believed that an extension of time and/or additional fee(s) are required, beyond those that may otherwise be provided for in documents accompanying this paper. In the event, however, that an extension of time is necessary to allow consideration of this paper, such an extension is hereby petitioned for under 37 C.F.R. §1.136(a). Any additional fees believed to be due in connection with this paper may be charged to Deposit Account No. 50-0220.

Respectfully submitted,



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APPENDIX A
Pending Claims USSN 10/092,646
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Listing of the Claims:

- 1-2. (Canceled).
3. (Previously Presented) The method of claim 14 wherein the directory service further includes user objects.
4. (Previously Presented) The method of claim 14 wherein the directory service further includes computer objects.
5. (Previously Presented) The method of claim 14 wherein the directory service further includes printer objects.
6. (Previously Presented) The method of claim 14 wherein the directory service further includes a directory service component with a descriptive parameter.
7. (Previously Presented) The method of claim 14 wherein backing up includes storing object settings, links to directory service objects, and security information regarding directory service objects.
8. (Canceled).
9. (Previously Presented) The method of claim 19 wherein various levels of security privileges can be delegated.
10. (Previously Presented) The method of claim 9 wherein the levels of security privileges that can be delegated include the ability to configure an entire policy object or the ability to configure only one or a plurality of administrative templates contained in a policy object.

11. (Previously Presented) The method of claim 14 wherein policy data associated with a policy object is stored in a database.

12. (Original) The method of claim 11 wherein the database where policy data is stored is the registry.

13. (Canceled).

14. (Previously Presented) A computer implemented method for selective restoring of policy objects associated with a directory service of a computer system, comprising:

backing up a plurality of the policy objects associated with the directory service of the computer system;

detecting a problem with a selected one of the plurality of policy objects; and

restoring the selected one of the plurality of policy objects without restoring others of the plurality of policy objects.

15. (Previously Presented) The method of Claim 14 wherein the detected problem comprises corruption of the selected one of the plurality of policy objects.

16. (Previously Presented) The method of Claim 14 wherein detecting a problem with a selected one of the plurality of policy objects comprises detecting problems with a plurality of policy objects and restoring the selected one comprises restoring the plurality of policy objects with detected problems.

17. (Previously Presented) The method of Claim 14 wherein restoring the selected one of the plurality of policy objects includes replicating the selected one of the plurality of policy objects across domain boundaries of the computer system.

18. (Previously Presented) The method of Claim 14 further comprising:

analyzing the effect a particular setting of one of the policy objects will have on a particular target represented as a directory service object before the particular setting is implemented in the directory service.

19. (Previously Presented) The method of Claim 14 wherein a security privilege of the computer system is required to effect a particular setting of the policy objects and wherein the method further comprises:

delegating the security privilege to selected users for selected objects in the directory service.

20. (Previously Presented) The method of Claim 14 wherein restoring includes restoring the selected one of the plurality of objects to a domain of the computer system from which it was backed up.

21. (Previously Presented) The method of Claim 14 wherein restoring includes restoring the selected one of the plurality of objects to a parent domain of a domain of the computer system from which it was backed up.

22. (Previously Presented) A system for selective restoring of policy objects associated with a directory service of a computer system, comprising:

means for backing up a plurality of the policy objects associated with the directory service of the computer system;

means for detecting a problem with a selected one of the plurality of policy objects;
and

means for restoring the selected one of the plurality of policy objects without restoring others of the plurality of policy objects.

23. (Previously Presented) The method of Claim 14 wherein the detected problem comprises deletion of the selected one of the plurality of policy objects.

24. (Previously Presented) The method of Claim 14 wherein a security privilege of the computer system is required to restore a particular setting of the policy objects and wherein the method further comprises:

delegating the security privilege to selected users for selected objects in the directory service.

25. (Previously Presented) The method of Claim 14 wherein restoring includes restoring the selected one of the plurality of objects to a child domain of a domain of the computer system from which it was backed up.

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APPENDIX B – EVIDENCE APPENDIX
(NONE)

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APPENDIX C – RELATED PROCEEDINGS
(NONE)